

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

IN RE:

**CASE NO.: 6:16-bk-07598-RAC
CHAPTER 7**

Cesar Antonio Figueroa, Jr.,

Debtor.

_____ /

**RESPONSE TO TRUSTEE'S MOTION TO SELL REAL
PROPERTY FREE AND CLEAR OF LIENS**

COMES NOW, U.S. Bank National Association, as Trustee, in Trust for Registered Holders of First Franklin Mortgage Loan Trust, Mortgage Loan Asset-Backed Certificates, Series 2007-FF2 ("Secured Creditor"), by and through the undersigned counsel, and files its Response to Trustee's Motion to Sell Real Property Free and Clear of Liens (DE #30), and, in support thereof, states as follows:

1. Debtor filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code on November 21, 2016.
2. Secured Creditor holds a first lien on the subject property located at 10107 Brownwood Ave, Orlando, FL 32825, by virtue of mortgage recorded on January 25, 2007 in Book 9080 at Page 3381 in the Public Records of Orange County, Florida. The mortgage is secured by a promissory note in the original principal amount of \$200,000.00.
3. As stated in Secured Creditor's Motion for Relief from Stay, the mortgage is in default and Secured Creditor obtained a Final Judgment of Foreclosure on October 18, 2016 in the amount of \$306,784.27.

4. According to the Motion, the Trustee states he has received a short sale offer with a contract price of \$170,000.00.
5. The Trustee's Motion to Sell has been filed after entry of the Debtor's discharge and Trustee intends to offer Secured Creditor \$143,048.98 in full satisfaction of Secured Creditor's lien upon completion of the sale.
6. Secured Creditor does not consent to impairment of its interest and requires that any proposed sale of the subject property by the Trustee strictly comply with each and every term and condition of the short sale approval which is attached hereto as Exhibit "A," including, but not limited to, compliance with the timelines, deadlines and monetary figure of no less than \$143,450.02.
7. Secured Creditor reserves the right to supplement this response at or prior to any hearing on this matter.

WHEREFORE, Secured Creditor requests that any Order Granting the Trustee's Motion be subject to strict compliance with all terms and conditions of the attached Exhibit "A" and for such other and further relief that this Court deems just and proper.

ROBERTSON, ANSCHUTZ & SCHNEID, P.L.
Attorney for Secured Creditor
6409 Congress Ave., Suite 100
Boca Raton, FL 33487
Telephone: 561-241-6901
Facsimile: 561-997-6909

By: /s/ Christopher P. Salamone, Esq.
Christopher P. Salamone, Esquire
Florida Bar Number: 75951
Email: csalamone@rasflaw.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 19th, 2017 I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, and a true and correct copy has been served via CM/ECF or United States Mail to the below mailing list.

CESAR ANTONIO FIGUEROA, JR
c/o RICHARD A HELLER
RICHARD A HELLER, P.A.
611 N. WYMORE RD., SUITE 219
WINTER PARK, FL 32789

ARVIND MAHENDRU
5703 RED BUG LAKE ROAD
SUITE 284
WINTER SPRINGS, FL 32708

UNITED STATES TRUSTEE - ORL7/13
GEORGE C YOUNG FEDERAL BUILDING
400 WEST WASHINGTON STREET, SUITE 1100
ORLANDO, FL 32801

May 15, 2017

EXHIBIT "A"

BK GLOBAL REAL ESTATE SERVICES
LAURA BARTON
2000 E. LAMAR BLVD
SUITE 155
ARLINGTON, TX 76006-0000

RE: Property Address: 10107 BROWNWOOD AVE
ORLANDO, FL 32825

Dear LAURA BARTON:

Select Portfolio Servicing, Inc. (SPS), the mortgage servicer on the enclosed referenced account, has received notification from a customer(s) that you have been retained as counsel with respect to matters regarding their mortgage loan. Our customer has requested that we direct all communication with regard to their mortgage account to your attention and has authorized you to receive such communication.

We respectfully request that the information contained in the attached notice be delivered to your client in a timely manner. We are interested in resolving your client's delinquency. Please call us to discuss options available to your client.

If you have any questions or concerns, please contact our Loan Resolution Department. Our toll-free number is (888) 818-6032, and representatives are available Monday through Thursday between the hours of 8 a.m. and 11 p.m., Friday from 8 a.m. to 9 p.m., and Saturday from 8 a.m. to 2 p.m., Eastern Time.

Sincerely,

Select Portfolio Servicing, Inc.

Esta carta contiene información importante concerniente a sus derechos. Por favor, hágala traducir. Nuestros representantes bilingües están a su disposición para contestar cualquier pregunta llamando al teléfono (800) 831-0118 y marque la opción 2.





May 15, 2017



BK GLOBAL REAL ESTATE SERVICES
2000 E. LAMAR BLVD
SUITE 155
ARLINGTON, TX 76006-0000

Re: Account Number: [REDACTED] 3267
Property Address: 10107 BROWNWOOD AVE
ORLANDO, FL 32825

Dear CESAR FIGUEROA, BRIDGET FIGUEROA:

Select Portfolio Servicing, Inc. (SPS), the mortgage servicer on the above referenced account, is sending this to you to provide information regarding the lien on the real property referenced above. Our records indicate that your obligation has either been discharged or is subject to an automatic stay order under the United States Bankruptcy Code. This notice and any enclosed documents are for compliance and informational purposes only and do not constitute a demand for payment or an attempt to collect such obligation. Even though your personal liability on the note may be discharged or subject to an automatic stay, the terms of the mortgage remain in effect and the owner of the mortgage, as lien holder, continues to have a lien on the real property.

SPS received your request to accept a compromised payoff of the above referenced property, or "Short Sale." Please be advised that SPS conditionally agrees to accept your proposed Short Sale and will release the lien on the property, contingent upon the following terms. The approval of your proposed Short Sale is intended to help you save your home by avoiding foreclosure. It is important that you read the enclosed documents carefully and comply with their terms.

If you were being considered under the Making Home Affordable (MHA) Home Affordable Foreclosure Alternatives (HAFA) program, please note that this program expired on December 30, 2016 and is no longer available. All applications will be reviewed under our proprietary programs.

- **Terms** - SPS must receive the net proceeds from the Short Sale in an amount not less than \$143,450.02 no later than July 14, 2017 (the closing date). The net proceeds must be in the form of wired funds or certified funds, and must be made payable to Select Portfolio Servicing, Inc. No personal checks will be accepted. Wiring funds is the preferred method of payment, and instructions are attached. Any extension of the closing date requires SPS's written approval.
 - a. Payoff funds and a final HUD-1 Settlement Statement/Closing Disclosure must be received by SPS within 48 hours of closing in accordance with the attached wiring instructions or funds may be returned.
- **Changes** - Any change to the terms and representations contained in the request or the attached sales contract between you and the buyer prior to closing must be approved by SPS in writing. SPS is under no obligation to approve such changes.



- **HUD-1/Closing Disclosure** - A copy of the final HUD-1 Settlement Statement/Closing Disclosure must be faxed to SPS at 866-867-3019, within two (2) business days of the closing. Both the buyer(s) and seller(s) represented in the transaction must sign the final HUD-1/Closing Disclosure. There must not be any change in the terms between the proposed HUD-1/Closing Disclosure and the final HUD-1/Closing Disclosure, and the funds remitted must agree with the final HUD-1/Closing Disclosure. As long as these terms are met, pre-approval of the proposed HUD-1/Closing Disclosure is not required.
- **Seller Funds** - In consideration for SPS's agreement to accept the Short Sale, in no event shall you receive any funds from the Short Sale (unless otherwise approved in advance by SPS). Any surplus funds above the agreed upon net proceeds at the time of closing are the exclusive property of SPS, and you agree that any such funds will be remitted to SPS, made payable to Select Portfolio Servicing, Inc. If SPS receives/retains proceeds in excess of the amount that, combined with the net proceeds, would have satisfied the lien in full, such surplus funds will be returned to you.
- **Tax Consequences** – A short payoff of the mortgage may have tax consequences. You are advised to contact a tax professional to determine the extent of tax liability, if any.
- **Closing Instructions** - The attached Closing Instructions should be provided to the settlement agent, and signed at the closing. All terms and conditions of the Closing Instructions must be met in their entirety. Within two (2) business days of the completed closing, a copy of the signed Closing Instructions must be returned to SPS via fax at 866-867-3019.
- **Bankruptcy** – If you are currently in bankruptcy or you file bankruptcy prior to closing, you must obtain any required consent or approval of the Bankruptcy Court.
- **Insurance Claim Proceeds** - This approval is conditioned upon you waiving your rights to any escrowed funds or refunds from prepaid expenses. You also agree that any trailing proceeds from filed hazard insurance claims will be sent to and retained by SPS as additional recovery toward the Short Sale loss. If SPS receives/retains proceeds in excess of the amount that, combined with the net proceeds, would have satisfied the loan in full, such surplus funds will be returned to you.
- **Property Registrations and Inspections** - You must have completed all applicable property registrations and inspections, as may be required by any federal, state, or municipal laws.
- **Interest in the Property** - All parties who have an interest in this transaction must approve the transaction.
- **Payment Instructions** – Payoff funds and a final HUD-1 Settlement Statement/Closing Disclosure must be received by SPS within 48 hours of closing in accordance with the attached wiring instructions.
- **Closing Instructions** – Please see full list of required documentation attached.

If any of the above conditions are not timely met, this approval will be void and the lien will not be released. If the above conditions are not timely met, SPS may institute or continue foreclosure proceedings if previously initiated. Provided that all terms and conditions set forth above has been satisfied, written confirmation that the payoff funds are in Escrow, along with a final HUD-1 Settlement Statement/Closing Disclosure, shall remove all conditions of approval for this Short Sale.

SPS is committed to your assistance. If after reading through the terms and conditions of the Short Sale, you find that you are unable to meet the requirements or you have further questions, please contact our office at the phone number listed below.

In addition to short sales, SPS has many other assistance options designed for customers who are experiencing temporary or permanent hardships. These options are offered at no cost to our customers and may include structured repayment plans, modifications, or account settlement alternatives, such as a deed in lieu of foreclosure. Please note that you requested that we review your account for loss mitigation options other than a modification or repayment plan. Please call us at (888) 818-6032 if you would like us to review you for a modification or repayment plan. The documentation and timing requirements are different than those discussed above.

Upon satisfaction of all terms of this approval, the mortgage will be discharged in its entirety, and a lien release document will be forwarded to your county for recording. The release document is an indication that the lien is considered satisfied by SPS. This approval is for the account number referenced above, and SPS makes no warranties and/or takes no responsibility for any liens senior or junior to our position being released in conjunction with this satisfaction. If a foreclosure action was commenced against this property, then upon satisfaction of all terms of this approval, the pending foreclosure action will be dismissed, and appropriate instruments recorded.

Notice of Error or Information Request

If you believe there has been an error with the account or you require additional information, you may send a written Notice of Error or Information Request. All Notices of Error or Information Requests must be sent in writing to the address listed below, as this is our exclusive address under Federal law for these matters. If you send your correspondence to any other address, it may not be processed in accordance with Federal law.

**Select Portfolio Servicing, Inc.
PO Box 65277 Salt Lake City, UT 84165-0277**

Servicemembers Civil Relief Act (SCRA)

SPS is committed to home ownership assistance for active servicemembers and veterans of the United States military. You may be entitled to certain protections under the federal Servicemembers Civil Relief Act (50 U.S.C. 3901 et seq.) regarding your interest rate and the risk of foreclosure if you are a servicemember or a dependent of a servicemember. Counseling for covered servicemembers is available at agencies such as Military OneSource (800-342-9647 or www.militaryonesource.mil) and Armed Forces Legal Assistance (<http://legalassistance.law.af.mil>). Note: your state may have more expansive eligibility criteria than below. Please contact us as soon as possible if you have any questions or believe you may be eligible.

Eligible service may include, but is not limited to:

- Regular members of the U.S. Armed Forces (Army, Navy, Air Force Marine Corps and Coast Guard), or
- Reserve and National Guard personnel who have been activated and are on Federal active duty, or
- National Guard personnel under a call or order to active duty for more than 30 consecutive days under section 502(f) of title 32, United States Code, for purposes of responding to a national emergency declared by the President and supported by Federal funds, or
- Active service members of the commissioned corps of the Public Health Service and the National Oceanic and Atmospheric Administration, or
- Certain United States citizens serving with the armed forces of a nation with which the United States is allied in the prosecution of a war or military action.

Please send written notice of military service as soon as possible to:

**Select Portfolio Servicing, Inc.
PO Box 65250 Salt Lake City, UT 84165-0250**

If you have questions regarding eligibility and application requirements, please call us at 800-258-8602.

If you have any questions, you have been assigned a Relationship Manager to assist you through this process. Your assigned Relationship Manager, Claudia Cortez, can be reached toll free at 800-258-8602 Ext. 36497 or by email at Relationship.Manager@SPSServicing.com.



If you have any questions or concerns, please contact our Loan Resolution Department. Our toll-free number is 888-818-6032, and representatives are available Monday through Thursday between the hours of 8 a.m. and 11 p.m., Friday from 8 a.m. to 9 p.m., and Saturday from 8 a.m. to 2 p.m., Eastern Time.

Sincerely,



Signature of Servicer Representative

Senior Vice President
Title

Kevin Warren
Printed Name of Servicer Representative

May 15, 2017
Date

Attachments: Closing Instructions
Certified Funds Remittance

Esta carta contiene información importante concerniente a sus derechos. Por favor, traduzca esta carta. Nuestros representantes bilingües están a su disposición para contestar cualquier pregunta. Llamenos al numero 800-831-0118 y seleccione/marque la opción 2.

This information is intended for informational purposes only and is not considered an attempt to collect a debt.

Closing Instructions
(To be completed at closing)

- Closing must take place on or before July 14, 2017 or this approval will be void. If an extension is requested and/or approved, our approval may result in per diem interest being charged through the closing.
- The approved buyer for this transaction is Carlos Rolando Iglesias and Garcias Dominga Fabelo Martinez and the gross sales price of the property is \$170,000.00.
- Another buyer cannot be substituted without prior written approval from SPS.
- The following closing costs that have been negotiated and agreed upon are:
 - Maximum Real Estate commission/fees paid: \$10,200.00
(See guidelines outlined in Section 7)
 - Maximum cash for cooperation incentive to seller (if approved by SPS): \$0.00
(See guidelines outlined in Section 8)
 - Maximum proceeds allowed to additional mortgage lien(s): \$3,000.00
- Please be aware that any additional fees or costs that are not approved as of the date of this letter will not be covered by SPS. Any changes requested to fees or costs must be approved by SPS prior to closing. SPS in under no obligation to approve additional fees or costs.
- Minimum Net proceeds to SPS can be no less than \$143,450.02 and must be remitted via certified funds so that our office is in receipt on or before July 14, 2017.
- If the real estate agent voluntarily changes the commission amount not to exceed 6%, the real estate agent must provide an addendum to the listing agreement or contract. Any additional real estate agent fees, broker fees or transaction cost being paid to the realty company must be deducted from commissions and may not be paid by either buyer or seller.
- If the closing of the short sale occurs in accordance with this agreement the seller may be eligible to receive assistance of up to \$10,000 to assist with relocation expenses. Relocation assistance may be considered income and may be reported to the IRS on Form 1099C.
- The property is being sold in "AS-IS" condition. As a result no repairs will be made nor will repair costs be paid out of the proceeds, unless specifically requested and approved.
- The Buyer and Seller represent that the transaction is an "arm's length" transaction and neither party is related by family, marriage or commercial enterprise.
- All required closing documents can be emailed to SPS at ClosingDocs@spservicing.com within one (1) business day of closing.
 - A final Certified HUD-1/Closing Disclosure must be executed by both the Buyer(s) and Seller(s) represented in the transaction.
 - Final proof of funding for the total closing transaction which includes all supporting documentation to support new loan amount and cash paid at settlement.
 - All Purchase Contracts and/or addendums consistent with the final closing transaction.



By signing this document, you state that you understand and agree to comply with the terms and conditions outlined above. Additionally, you are certifying that this document and any other documents that have been used in conjunction with obtaining our approval and the closing of this transaction have been signed with your consent and are true and correct. Any misrepresentation and/or misstatement will void our approval of the sale and may subject you to potential criminal investigation and prosecution.

_____ Seller	_____ Date	_____ Seller	_____ Date
_____ Buyer	_____ Date	_____ Buyer	_____ Date
_____ Closing Agent	_____ Date	Notary Stamp:	



Certified Funds Remittance

Certified funds must be sent in the form of a bank wire, cashier's bank check, attorney trust account check, title or escrow company check, or Western Union Quick Collect.

Wire Instructions

All wires must reference the customer's account number, customer name, and property street address. Without these references, application of the funds may be delayed. Use these wire instructions **only** for **mortgage payments, reinstatements, or payoffs**. Please email any special instructions to WireDetail@spservicing.com, or you can fax details or instructions to 801-270-7838.

Account Name	Select Portfolio Servicing, Inc. Wire Retaining
Account Number	900900308
Bank:	JP Morgan Chase
Routing/ABA#	021000021
SWIFT Code	CHASUS33 (for international wire use only)
Customer Account Number	3267
Customer Name(s):	CESAR FIGUEROA
Property Street Address	10107 BROWNWOOD AVE ORLANDO FL 32825

Overnight Mailing Address

Select Portfolio Servicing, Inc.
Attn: Remittance Processing
 3217 S. Decker Lake Dr Salt Lake City, UT 84119

Please write the SPS account number on all funds and correspondence.

Western Union Quick Collect

To find the Western Union location nearest you, visit www.westernunion.com or call 800-325-6000.

Reference the account number and deliver to Code City: Oswald; Code State: UT.



